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United Communications Systems, Inc. )  
d/b/a Call One )  
 )  
Petition for Arbitration of an )  
Interconnection Agreement with )  
Illinois Bell Telephone Company d/b/a )  
SBC Illinois, Pursuant to Section 252(b) )  
of the Telecommunications Act of 1996 )

Docket No. 03-0772

**SBC ILLINOIS' RESPONSE TO  
PETITION FOR ARBITRATION**

Illinois Bell Telephone Company ("SBC Illinois"), pursuant to Section 252(b)(3) of the Telecommunications Act of 1996 ("1996 Act" or "Act"), hereby responds to the Petition for Arbitration ("Petition") filed by United Communications Systems, Inc. d/b/a Call One ("UCS").

**Scope and Purpose of the Response**

The purpose of this response is to file with the Commission the attached redline interconnection agreement, which reflects SBC Illinois' understanding of the disputed contract language at issue in this arbitration. Attached to UCS's Petition as Exhibit C are redlined drafts of the General Terms and Conditions, Appendix Resale, Appendix Recourse Credits, and Appendix Performance Measurements of the interconnection agreement that purportedly reflect the parties' positions by showing agreed language in normal font, UCS's proposed language in *italicized* text, and SBC Illinois' proposed language in underlined text. UCS's Exhibit C, however, does not accurately reflect SBC Illinois' positions on the vast majority of the issues to be arbitrated in this proceeding.

In order to provide the Administrative Law Judge and Staff with an accurate contract document they can work with, SBC Illinois attaches to this Petition its own redlined

interconnection agreement (*see* Attachment A). With respect to the issues that the parties are arbitrating, SBC Illinois' redlines accurately reflect the contract language that SBC Illinois advocates, and constitute SBC Illinois' best efforts to accurately reflect the contract language UCS advocates. In particular, SBC Illinois' redline shows (i) language that SBC Illinois understands the parties have agreed will be included in the agreement; (ii) language that SBC Illinois maintains should be included in the agreement and that SBC Illinois understands UCS opposes; and (iii) language that SBC Illinois understands that UCS maintains should be included in the agreement and that SBC Illinois opposes.<sup>1</sup> If UCS disputes the accuracy of its proposed language as reflected in SBC Illinois' redlined interconnection agreement, it should notify SBC Illinois and the Commission as soon as possible. In addition, and as further explained below, SBC Illinois' interconnection agreement also includes certain appendices, which are standard in a complete resale agreement. These appendices include: 1) SBC Illinois' Commission Approved Section 271 Plan and Performance Measurement Business Rules; 2) SBC Illinois' List of Illinois Resale Pricing Discounts; 3) SBC Illinois' Resale Pricing Appendix; 4) SBC Illinois' Resale Subject Index; 5) SBC Illinois' OS Appendix; and 6) SBC Illinois' OSS Appendix. These appendices are proposed by SBC Illinois, and have been neither accepted nor rejected by UCS.<sup>2</sup>

SBC Illinois' positions regarding the issues raised by UCS's Petition, as well as the evidence and arguments upon which SBC Illinois will urge the Commission to resolve the issues

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<sup>1</sup> SBC Illinois' proposed language that UCS opposes is reflected in underlined font and UCS's proposed language that SBC Illinois opposes is reflected in *italicized* font. Language that is agreed to by the parties is reflected in normal font. As further explained below, SBC Illinois also proposes to include in the interconnection agreement certain appendices, which are standard in complete resale interconnection agreements. Although UCS has neither accepted nor rejected the language in those appendices, the language set forth therein also appears in normal font.

<sup>2</sup> Again, although these appendices are proposed by SBC Illinois, they appear in normal font.

in SBC Illinois' favor, will be provided in the testimony of SBC Illinois' witnesses (to be filed on February 3, 2004) and in SBC Illinois' briefs. SBC Illinois will not undertake to set forth its positions regarding the issues raised by UCS's Petition in this Response, because that is not the purpose of a response to an arbitration petition under the 1996 Act. In fact, under the 1996 Act, this response is an optional filing. *See* 47 U.S.C. § 252(b)(3). However, SBC Illinois does seek to raise certain issues beyond those set forth in UCS's Petition, and those issues are further explained below.

### **Identification of the Issues**

It is SBC Illinois' understanding that Issues 11 and 26-29 have been settled. However, over the course of the negotiations with UCS, SBC Illinois has identified other issues beyond those set forth in UCS's Petition that must be arbitrated by the Commission. Those issues, along with a brief statement of SBC Illinois' position are set forth below and will be more fully explained in SBC Illinois' testimony and briefs.

### **SBC Illinois Issues**

**SBC Illinois Issue 1:**            **Should SBC Illinois be required to provide UCS with CompleteLink Service on terms and conditions that are superior to those provided to SBC Illinois' retail customers?**

**Affected Language:**            UCS's Appendix Resale (except Section 3)

#### **SBC Illinois' Initial Statement of Position:**

No. Section 2 of the Appendix Resale attached to UCS's Petition sets forth language that purportedly reflects the terms and conditions pursuant to which SBC Illinois will provide UCS with CompleteLink Service for resale. Section 2, however, now incorrectly reflects those terms and conditions as language agreed to by the parties. *See* UCS Appendix Resale, 2.2, 2.3, 2.4.

The terms and conditions in Section 2 of UCS's Appendix Resale are superior to what SBC Illinois provides its own retail customers, and were offered by SBC Illinois as an incentive for UCS to reach an agreement amicably through negotiations pursuant to Section 252(a)(1) of the 1996 Act<sup>3</sup> rather than through arbitration. In particular, Section 2 of UCS's Appendix Resale permits UCS to (1) remove the Maximum Annual Discount ("MAD") and business location requirements; (2) aggregate end users as otherwise not allowed; (3) enter into multiple CompleteLink agreements; and (4) receive additional discounts – all rights that SBC Illinois' own retail end-users do not have. Despite this offer (for which SBC Illinois reasonably expected to receive from UCS the benefit of avoiding arbitration) and others by SBC Illinois throughout the parties' negotiations, UCS filed for arbitration of 32 issues, apparently determined to extract even more than the generous concessions proffered by SBC Illinois. While SBC Illinois will make available to UCS CompleteLink Service at the rates, terms and conditions as set forth in SBC Illinois' Resale Tariff, *i.e.* parity, SBC Illinois has no duty under the 1996 Act to provide (and thus, will not provide) UCS with the CompleteLink Service for resale on terms and conditions that are not offered to SBC Illinois' own retail customers.<sup>4</sup> Accordingly, the terms and conditions in Section 2 of UCS's Appendix Resale should be rejected in their entirety.

The only other substantive terms remaining in UCS's Appendix Resale are contained in Section 3, and concern ICBs. Because there is no reason to have a separate appendix for only the terms of Section 3, SBC Illinois has moved those terms into the body of the agreement itself. *See* Attachment A, SBC Illinois GT&C Section 3.1.21. The remaining terms of UCS's

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<sup>3</sup> Section 252(a)(1) permits the parties to negotiate an agreement "without regard to the standards set forth in subsections (b) and (c) of Section 251."

<sup>4</sup> *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, First Report and Order, CC-Docket No. 96-98, ¶ 872 (rel. Aug. 8, 1996) ("*First Report and Order*").

Appendix Resale (e.g. the preamble and miscellaneous terms) are no longer necessary, and thus, should be rejected by the Commission.

**UCS's Position:**

Based on recent discussions with UCS's counsel, it is SBC Illinois' understanding that UCS has no objection to this process.

**SBC Illinois Issue 2:**            **Should the parties include in the interconnection agreement standard appendices that are routinely included in SBC Illinois interconnection agreements?**

**Affected Language:**        SBC Illinois' Commission Approved Section 271 Plan and Performance Measurement Business Rules; SBC Illinois' List of Illinois Resale Pricing Discounts; SBC Illinois' Resale Pricing Appendix; SBC Illinois' Resale Subject Index; SBC Illinois' OS Appendix; and SBC Illinois' OSS Appendix.

**SBC Illinois' Initial Statement of Position:**

Yes. Attached to SBC Illinois' redlined interconnection agreement are the following standard appendices: 1) SBC Illinois' Commission Approved Section 271 Plan and Performance Measurement Business Rules; 2) SBC Illinois' List of Illinois Resale Pricing Discounts; 3) SBC Illinois' Resale Pricing Appendix; 4) SBC Illinois' Resale Subject Index; 5) SBC Illinois' OS Appendix; and 6) SBC Illinois' OSS Appendix. While SBC Illinois informed UCS of these particular appendices during negotiations on repeated occasions, and showed UCS how it could access the most current versions of them through the CLEC Online website, UCS has to date neither accepted nor rejected their inclusion in the interconnection agreement. In fact, UCS has simply refused to comment on them at all. These appendices are routinely included in SBC Illinois' interconnection agreements approved by this Commission, and the provisions set forth therein are not controversial. Accordingly, the Commission should require the parties to include SBC Illinois' proposed appendices in the interconnection agreement.

**UCS's Position:**

Because UCS has neither accepted nor rejected the inclusion of SBC Illinois' proposed appendices in the interconnection agreement, SBC Illinois does not know UCS's position on this issue.

**SBC Illinois Issue 3:**            **Should the interconnection agreement contain language incorporating by reference the rates, terms and conditions set forth in the appendices to the interconnection agreement?**

**Affected Language:**        SBC Illinois General Terms and Conditions, § 2.11

**SBC Illinois' Initial Statement of Position:**

Yes. SBC Illinois' proposed language should be adopted because it states the obvious; that is, the resale services, functions, products available under the interconnection agreement should be subject to all legitimately related rates, terms and conditions contained in the appendices to the interconnection agreement.

**UCS's Position:**

UCS's position on this issue is unknown to SBC Illinois.

**SBC Illinois Issue 4:**            **Should the interconnection agreement contain language requiring that grandfathered services only be provided to UCS for resale at the applicable discount only to the same end-user and at the existing end-user's location?**

**Affected Language:**        SBC Illinois General Terms and Conditions, § 3.1.11

**SBC Illinois' Initial Statement of Position:**

Yes. SBC Illinois' position is reasonable and should be adopted because grandfathered services, by definition, are services that SBC Illinois no longer provides to its own new retail end-users. Because SBC Illinois does not provide grandfathered services to its own new retail end-users, SBC Illinois should be required to provide grandfathered services to UCS for resale

only to the same end-users. Otherwise, SBC Illinois would effectively be required to provide to UCS services for resale that are not available to SBC Illinois' new end-users.

**UCS's Position:**

Although SBC Illinois provided this language to UCS during negotiations, it has neither accepted nor rejected such language, and SBC Illinois does not know UCS's position regarding this issue.

**SBC Illinois Issue 5:**            **Should UCS be required only to sell Plexar, Centrex, and Centrex-like services to end-users in accordance with the terms and conditions set forth in SBC Illinois' retail tariff?**

**Affected Language:**            SBC Illinois General Terms and Conditions, § 3.1.12.

**SBC Illinois' Initial Statement of Position:**

SBC Illinois' proposed language in GT&C § 3.1.12 is common in SBC Illinois' interconnection agreements with resellers, and should be adopted by the Commission.

**UCS's Position:**

Although SBC Illinois provided this language to UCS during negotiations, it has neither accepted nor rejected such language, and SBC Illinois does not know UCS's position regarding this issue.

**SBC Illinois Issue 6:**            **Should UCS be required to resell services to the same category of end-users to whom SBC Illinois offers such services?**

**Affected Language:**            SBC Illinois General Terms and Conditions, §§ 3.1.13, 3.1.13.1, 3.1.13.2, 3.1.13.3.

**SBC Illinois' Initial Statement of Position:**

Yes. UCS should not be permitted to resell services to a different class of end-users than the class to which SBC Illinois offers such services. For example, UCS should not be allowed to resell SBC Illinois' residential services to business end-users. Similarly, UCS should only be

permitted to resell special needs services to persons eligible for such services. SBC Illinois' proposed language is consistent with the FCC's rule, which permits state commissions to prohibit CLECs from offering residential services to classes of customers that are not eligible to subscribe to such services from the ILEC. *See* 47 C.F.R. § 51.613(a)(1). SBC Illinois should also not be required to provide LifeLine or Link-Up services to UCS for resale. LifeLine and Link-Up are Commission mandated discount programs, and requiring SBC Illinois to resell those services at a further discount would drive the prices for such service below SBC Illinois' costs.

**UCS's Position:**

Although SBC Illinois provided this language to UCS during negotiations, it has neither accepted nor rejected such language, and SBC Illinois does not know UCS's position regarding this issue.

**SBC Illinois Issue 7:**            **Should UCS be permitted to use a resold service to avoid the rates, terms and conditions of SBC Illinois' corresponding retail tariffs?**

**Affected Language:**        SBC Illinois General Terms and Conditions, § 3.1.14

**SBC Illinois' Initial Statement of Position:**

No. SBC Illinois' proposed language is reasonable and should be adopted because it prohibits UCS from obtaining SBC Illinois' retail services at the wholesale discount for its own use or for use by an affiliate. In short, SBC Illinois' proposed language is a standard term and condition contained in its resale agreements to ensure that SBC Illinois' retail services are provided for resale only to independent end-users. *See* 47 USC § 251(c)(4)(A) (ILECs have the duty "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers *who are not telecommunications carriers.*"(emphasis added)). *See also First Report and Order*, ¶ 875.

**UCS's Position:**

Although SBC Illinois provided this language to UCS during negotiations, it has neither accepted nor rejected such language, and SBC Illinois does not know UCS's position regarding this issue.

**SBC Illinois Issue 8:**            **Should the interconnection agreement contain language prohibiting UCS from using resold services to provide access or interconnection services to itself, interexchange carriers ("IXCs"), wireless carriers, competitive access providers ("CAPs"), or other telecommunications providers?**

**Affected Language:**            SBC Illinois General Terms and Conditions, § 3.1.15

**SBC Illinois' Initial Statement of Position:**

Yes. SBC Illinois' proposed language is a common term and condition in its resale agreements that simply reflects that fact that under Section 251(c)(4)(A) of the 1996 Act, SBC Illinois is required "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers *who are not telecommunications carriers.*" (emphasis added). *See also First Report and Order*, ¶ 875. Therefore, the Commission should adopt SBC Illinois' proposed language.

**UCS's Position:**

Although SBC Illinois provided this language to UCS during negotiations, it has neither accepted nor rejected such language, and SBC Illinois does not know UCS's position regarding this issue.

**SBC Illinois Issue 9:**            **Should the interconnection agreement contain language providing that the Federal End User Common Line ("EUCL") charge and any other appropriate Commission-approved charges apply to each local exchange line furnished to UCS?**

**Affected Language:**            SBC Illinois General Terms and Conditions, § 3.1.16.

**SBC Illinois' Initial Statement of Position:**

Yes. SBC Illinois' inclusion of this general term in the interconnection agreement is non-controversial, as it serves only to clarify that the federal EUCL charge and Commission-approved charges apply to the local exchange lines provided to UCS. Therefore, the Commission should adopt SBC Illinois' proposed language.

**UCS's Position:**

Although SBC Illinois provided this language to UCS during negotiations, it has neither accepted nor rejected such language, and SBC Illinois does not know UCS's position regarding this issue.

**SBC Illinois Issue 10:**      **Should UCS be responsible for Primary Interexchange Carrier (both PIC and LPIC) change charges associated with each local exchange line furnished to UCS for resale, and should UCS be required to pay all charges for PIC and LPIC at the tariffed rate(s)?**

**Affected Language:**      SBC Illinois General Terms and Conditions, § 3.1.17

**SBC Illinois' Initial Statement of Position:**

Yes. SBC Illinois' proposed language is a standard term in its resale agreements with CLECs, and merely clarifies UCS's responsibility to pay PIC and LPIC change charges for each local exchange line provided to UCS for resale.

**UCS's Position:**

Although SBC Illinois provided this language to UCS during negotiations, it has neither accepted nor rejected such language, and SBC Illinois does not know UCS's position regarding this issue.

**SBC Illinois Issue 11:**      **Should the interconnection agreement contain language specifying that SBC Illinois shall provide services subject to the availability of existing facilities and on a nondiscriminatory basis with its other customers?**

**Affected Language:** SBC Illinois General Terms and Conditions, § 3.1.18

**SBC Illinois Initial Statement of Position:**

Yes. Again, SBC Illinois' proposed language is a standard term in its resale agreements with CLECs that should be adopted here. Certainly, there is nothing objectionable about SBC Illinois providing its resold services on a nondiscriminatory basis. Likewise, it is not objectionable for SBC Illinois to provide services subject to the availability of its existing facilities, because SBC Illinois is not required under the 1996 Act to provide services to UCS for resale that SBC Illinois does not otherwise provide its own retail customers, nor is it required construct new facilities solely to provide UCS with service for resale.

**UCS's Position:**

Although SBC Illinois provided this language to UCS during negotiations, it has neither accepted nor rejected such language, and SBC Illinois does not know UCS's position regarding this issue.

**SBC Illinois Issue 12:** **Should UCS be required to provide its end-users and SBC Illinois with a telephone number or numbers that UCS's end-users may use to contact UCS for repairs or service?**

**Affected Language:** SBC Illinois General Terms and Conditions, § 3.1.19

**SBC Illinois Initial Statement of Position:**

Of course. There is no doubt that UCS should be required to provide its own end-users with a telephone number or numbers so that they may contact UCS if they require service. UCS should also provide SBC Illinois with such telephone numbers, so that SBC Illinois may inform UCS's end-users of the correct number to call, in the event UCS's end-users contact SBC Illinois.

**UCS's Position:**

Although SBC Illinois provided this language to UCS during negotiations, it has neither accepted nor rejected such language, and SBC Illinois does not know UCS's position regarding this issue.

**SBC Illinois Issue 13:**      **Should the interconnection agreement contain terms and conditions governing SBC Illinois' provision to UCS of ancillary services including, but not limited to, 911, White Page listings, OS/DA, and branding?**

**Affected Language:**      SBC Illinois General Terms and Conditions, § 4.

**SBC Illinois Initial Statement of Position:**

Yes, such terms and conditions should be included in the interconnection agreement with UCS. SBC Illinois' proposed language in Section 4 of the GT&C contains the standard terms and conditions for services that are typically requested and desired – and in the case of 911 services, required – by resellers. UCS provided no competing language in its redlined contract document attached to its Petition, and thus, SBC Illinois' proposed language should be adopted.

**UCS's Position:**

Although SBC Illinois provided this language to UCS during negotiations, it has neither accepted nor rejected such language, and SBC Illinois does not know UCS's position regarding this issue.

**SBC Illinois Issue 14:**      **Should the interconnection agreement contain terms and conditions governing UCS's Ordering and Billing of Services?**

**Affected Language:**      SBC Illinois General Terms and Conditions, § 7.

**SBC Illinois Initial Statement of Position:**

The entirety of Section 7 to SBC Illinois' proposed GT&C contains the standard terms and conditions that govern the ordering and billing of services that SBC Illinois provides to UCS

under the interconnection agreement. Such provisions are obviously necessary in an interconnection agreement. However, UCS provided no competing language in its redlined contract document attached to its Petition, and thus, SBC Illinois' proposed language should be adopted.

**UCS's Position:**

Although SBC Illinois provided this language to UCS during negotiations, it has neither accepted nor rejected such language, and SBC Illinois does not know UCS's position regarding this issue.

**SBC Illinois Issue 15:**        **Should the interconnection agreement contain language permitting SBC Illinois to reserve its right to withdraw its tariffs in accordance with applicable law?**

**Affected Language:**        SBC Illinois General Terms and Conditions, § 2.2.4

**SBC Illinois' Initial Statement of Position:**

Yes. SBC Illinois' proposed language is reasonable, as it merely allows SBC Illinois to reserve its rights to withdraw its tariff in accordance with Applicable Law. Such language is common in SBC Illinois' interconnection agreements and should be adopted here.

**UCS's Position:**

UCS's position on this issue is unknown to SBC Illinois.

**CONCLUSION**

For the foregoing reasons, and for the reasons to be set forth in SBC Illinois' subsequent submissions, SBC Illinois urges the Commission to resolve the arbitration issue in favor of SBC Illinois.

Dated: January 29, 2004

Respectfully submitted,

SBC ILLINOIS

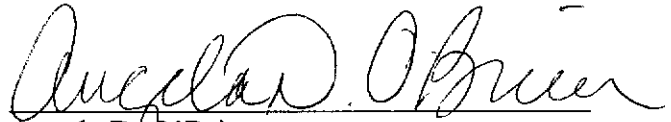
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**CERTIFICATE OF SERVICE**

I, Angela D. O'Brien, an attorney, hereby certify that I caused a copy of the Notice of Filing and SBC Illinois' Response to Petition for Arbitration to be served on all parties listed on the attached service list via e-mail on January 29, 2004.

  
Angela D. O'Brien

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